

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Yu	Team: Squad #8	CCRB Case #: 201904581	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 04/14/2019 11:00 PM	Location of Incident: § 87(2)(b)	Precinct: 46	18 Mo. SOL 10/14/2020	EO SOL 5/31/2021	
Date/Time CV Reported Sat, 05/25/2019 6:52 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/25/2019 6:52 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Brendan Thompson	21768	960025	046 PCT
2. POM Herbert Davis	23042	932526	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Cory Bowles	02194	961499	046 PCT
2. POM Adam Morales	23780	965351	046 PCT
3. POM Luis Sotomayor	21209	959262	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Herbert Davis	Abuse: Police Officer Herbert Davis entered location.	§ 87(2)(b)
B.POM Herbert Davis	Abuse: Police Officer Herbert Davis threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
C.POM Brendan Thompson	Force: Police Officer Brendan Thompson pointed his/her gun at § 87(2)(b)	§ 87(2)(b)
D.POM Brendan Thompson	Force: Police Officer Brendan Thompson used a non-lethal restraining device on § 87(2)(b)	§ 87(2)(b)
E.POM Brendan Thompson	Abuse: Police Officer Brendan Thompson entered location.	§ 87(2)(b)
F.POM Herbert Davis	Abuse: Police Officer Herbert Davis entered location.	§ 87(2)(b)
G.POM Brendan Thompson	Abuse: Police Officer Brendan Thompson did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
H.POM Herbert Davis	Abuse: Police Officer Herbert Davis did not obtain medical treatment for § 87(2)(b)	§ 87(2)(b)
I.POM Brendan Thompson	Force: Police Officer Brendan Thompson fired his gun at § 87(2)(b)	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

On May 25, 2019, a reporting non-witness, § 87(2)(b) filed this complaint on behalf of § 87(2)(b) (deceased). During the investigation, the investigation contacted § 87(2)(b)'s mother, § 87(2)(b) and their family's attorney, § 87(2)(b).

On April 14, 2019, at approximately 10:45 p.m., PO Brendan Thompson and PO Herbert Davis of the 46th Precinct responded to a 911 call regarding harassment at § 87(2)(b) in the Bronx. PO Thompson and PO Davis subsequently approached § 87(2)(b)'s apartment on the fourth floor. As PO Davis knocked on the door, the door opened by itself. PO Davis stepped inside the apartment and extended his asp (**Allegation A: Abuse of Authority, § 87(2)(g)**; **Allegation B: Abuse of Authority, § 87(2)(g)**). As PO Thompson held the taser in his left hand, he drew his firearm with his right hand and pointed both at § 87(2)(b) (**Allegation C: Force, § 87(2)(g)**). PO Thompson subsequently tasered § 87(2)(b) (**Allegation D: Force, § 87(2)(g)**). PO Davis and PO Thompson then entered § 87(2)(b)'s residence in order to handcuff him (**Allegation E and F: Abuse of Authority, § 87(2)(g)**). PO Davis and PO Thompson then backed out of the residence before PO Thompson fatally shot § 87(2)(b) four times (**Allegation G: Force, § 87(2)(g)**). PO Thompson and PO Davis failed to render medical aid to § 87(2)(b) after he was shot (**Allegations H and I: Abuse of Authority, § 87(2)(g)**).
§ 87(4-b) § 87(2)(g)

Aside from PO Thompson's BWC, the investigation is in possession of 22 additional body-worn camera footage pertaining to this incident; none of which captured the circumstances prior to PO Thompson shooting § 87(2)(b) (Board Review 03). The investigation also obtained surveillance footage from § 87(2)(b) (Board Review 05).

The Bronx District Attorney's Office declined to charge PO Thompson and PO Davis and the NYPD Force Investigation Division (FID) cleared them of misconduct (Board Review 01 and 02).

Allegations Not Pledged:

Additional officers responded to the location after PO Thompson relayed over the radio that shots were fired. At 3:46 of PO Kevin Bowles' BWC footage, while officers were standing in the hallway of the location, Sgt. Eloise Walter of the 46th Precinct asked the officers, "Who's injured," and PO Bowles said, "Nobody just a perp" (Board Review 45). At 3:12 of PO Luis Sotomayor's BWC footage, PO Sotomayor also responded by saying, "Nobody just a perp" (Board Review 46). Although these discourteous statements were captured on video and seen by members of the public, they were made between officers without any living civilian witnesses present. Therefore, the investigation did not plead these allegations.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Herbert Davis entered § 87(2)(b) in the Bronx.

Allegation (B) Abuse of Authority: Police Officer Herbert Davis threatened § 87(2)(b) with the use of force.

§ 87(2)(b) is operated by § 87(2)(b) which provides supportive housing to individuals with various needs, including behavioral health services (Board Review 06).

The CCRB interviewed the § 87(2)(b), § 87(2)(b) on March 25, 2021, and the § 87(2)(b) § 87(2)(b) on March 17, 2021 (Board Review 07 and 08). The investigation is

also in possession of their written statements regarding this incident from their employers § 87(2)(b) § 87(2)(b)'s statement was dated April 15, 2019 and § 87(2)(b) § 87(2)(b)'s statement was dated "April 14-15, 2019"), the Bronx District Attorney's investigative report containing their testimony § 87(2)(b) § 87(2)(b) was interviewed on May 28, 2019 and § 87(2)(b) § 87(2)(b) was interviewed on June 20, 2019) and of their interviews with FID which occurred on the same night of the incident (Board Review 01, 09, 10, 24, and 25).

§ 87(2)(b) § 87(2)(b)'s testimony to the CCRB and her three other previous statements were generally consistent. The times that are listed were taken from her FID interview and statement to her employer given that they were obtained right after the incident. On April 14, 2019, at approximately 10:29 p.m., § 87(2)(b) § 87(2)(b) received calls from tenants complaining about § 87(2)(b) § 87(2)(b) yelling. § 87(2)(b) § 87(2)(b) then called § 87(2)(b) § 87(2)(b) over the intercom and told him to keep it down, but § 87(2)(b) § 87(2)(b) responded by saying that he "runs this shit," and to not tell him to keep it down "before he slits someone's throat like that white man did". § 87(2)(b) § 87(2)(b) then came down to the lobby and ran outside while holding a stick. At around 10:42 p.m., § 87(2)(b) § 87(2)(b) returned in the building and began banging on the superintendent's door. In page 5 of the Bronx DA's report, it notes that § 87(2)(b) § 87(2)(b) stated that § 87(2)(b) § 87(2)(b) appeared to be holding a knife and a stick in his hand (Board Review 01). In § 87(2)(b) § 87(2)(b)'s other statements, she did not state that § 87(2)(b) § 87(2)(b) was holding a knife. In § 87(2)(b) § 87(2)(b)'s testimony to the CCRB, § 87(2)(b) § 87(2)(b) stated that she did not see § 87(2)(b) § 87(2)(b) ever holding a knife. § 87(2)(b) § 87(2)(b) stated that, from the security cameras, she saw § 87(2)(b) § 87(2)(b) bang on § 87(2)(b) § 87(2)(b)'s door. § 87(2)(b) § 87(2)(b) subsequently called 911 and reported that § 87(2)(b) § 87(2)(b) was harassing tenants and the superintendent. During the call, § 87(2)(b) § 87(2)(b) stated that § 87(2)(b) § 87(2)(b) was banging on the superintendent's door, that he lived in apartment 409, and was carrying a stick. At around 10:48 p.m., § 87(2)(b) § 87(2)(b) went to § 87(2)(b) § 87(2)(b)'s office and called 911.

In the 911 Communications audio, § 87(2)(b) § 87(2)(b) told the 911 operator that someone was trying to attack him, he did not have his keys, and requested the fire department because the building was on fire (Board Review 12). § 87(2)(b) § 87(2)(b) called 911 immediately after and told the operator that § 87(2)(b) § 87(2)(b) was "losing his mind" and there was no fire (Board Review 14). § 87(2)(b) § 87(2)(b) also told the operator that she was unaware of § 87(2)(b) § 87(2)(b)'s mental health history, that he banged on doors with a big wooden stick, yelled at a tenant, and that he might need an ambulance, was possibly intoxicated and had been "losing his mind all day." During the 911 call, § 87(2)(b) § 87(2)(b) told the operator that she saw FDNY and the police at the location. The call was then disconnected.

In her CCRB statement, § 87(2)(b) § 87(2)(b) said that the firefighters left within two minutes of arriving and § 87(2)(b) § 87(2)(b) went upstairs. Within seconds of the firefighters leaving, two officers, PO Davis and PO Thompson, arrived. PO Davis asked § 87(2)(b) § 87(2)(b) if she knew of § 87(2)(b) § 87(2)(b)'s mental state and if he took any medication or substances and she said she did not know. § 87(2)(b) § 87(2)(b) believed that she told the officers that she called 911, but she did not recall if she told them why she called. § 87(2)(b) § 87(2)(b) believed that she told the officers that § 87(2)(b) § 87(2)(b) was harassing the superintendent. § 87(2)(b) § 87(2)(b) was not sure if she told the officers that § 87(2)(b) § 87(2)(b) had a stick. § 87(2)(b) § 87(2)(b) did not believe she told the officers that § 87(2)(b) § 87(2)(b) had a weapon.

§ 87(2)(b) § 87(2)(b)'s CCRB statement was also generally consistent with his previous three statements. § 87(2)(b) § 87(2)(b) § 87(2)(b) stated that § 87(2)(b) § 87(2)(b) said he was locked out of his apartment as he banged on his door. Although in his CCRB statement § 87(2)(b) § 87(2)(b) said he only saw § 87(2)(b) § 87(2)(b)'s face when he looked through the peephole, in his previous statements, § 87(2)(b) § 87(2)(b) said he saw § 87(2)(b) § 87(2)(b) with a large stick/staff in his hand and § 87(2)(b) § 87(2)(b) told him that he would "burn the motherfucking building down" and "fuck" him up. § 87(2)(b) § 87(2)(b) called 911 at some point after and in the 911 audio § 87(2)(b) § 87(2)(b) reported that he felt threatened and did not know if § 87(2)(b) § 87(2)(b) was armed but that § 87(2)(b) § 87(2)(b) threatened to punch him in the face and knock him out. § 87(2)(b) § 87(2)(b) later went to the lobby

after hearing FDNY and FDNY informed him that § 87(2)(b) reported a fire. PO Davis and PO Thompson arrived shortly after FDNY left and § 87(2)(b) informed them that § 87(2)(b) threatened to burn down the building and to “f---” him up. § 87(2)(b) and § 87(2)(b), the § 87(2)(b), subsequently escorted PO Davis and PO Thompson up to the fourth floor and they were told to remain in the stairwell while the officers knocked on § 87(2)(b)’s door. After the second or third knock, § 87(2)(b) heard § 87(2)(b) open the door. He then heard the officers asking § 87(2)(b) to put the knife and stick down three times.

PO Thompson and PO Davis’ statements to FID were generally consistent with their CCRB testimonies.

The 46th Precinct Roll Call and EVENTS indicated that PO Thompson and PO Davis were assigned to “Response Auto 4” and responded to § 87(2)(b) regarding a harassment complaint (Board Review 20 and 21). In their CCRB statements, PO Thompson and PO Davis stated that they were on patrol when they received a call of a “crime in progress” (10-39) at § 87(2)(b) (Board Review 22 and 23). PO Thompson had no prior knowledge of this location and had not previously responded there (Board Review 22). PO Davis stated that he had previously responded to the location for “mild stuff” such as “small disputes” between neighbors (Board Review 23). PO Davis also elaborated that this building was a city-run facility and that some of the single-room occupants inside had mental illnesses (Board Review 22). PO Davis had never responded to this building with PO Thompson prior to this incident, and PO Davis was not aware if PO Thompson had ever responded to this building prior to this incident. Prior to arriving to the location, neither PO Davis nor PO Thompson conducted any computer checks regarding the harassment call or location.

PO Thompson stated that there were two calls, one from the § 87(2)(b) § 87(2)(b) of the building and one from the § 87(2)(b) § 87(2)(b). PO Thompson stated that “Central” (the NYPD’s emergency dispatcher) reported that a male with a stick was banging on doors. A description of the individual was provided; however, PO Thompson did not recall what the description included. PO Davis stated that he did not have any additional information beyond Central stating “10-39” radio code prior to arriving at the location.

According to PO Davis, while in route to the location, he heard a radio run of a “fire in progress” (10-59) for an unknown location. PO Thompson stated that neither he nor PO Davis conducted any computer checks to determine why the firefighters were present. Upon arriving at the location, PO Thompson and PO Davis observed at least one firetruck in front. PO Davis believed that the firetrucks were there in response to a “fire in progress” (10-59), but because there was no smoke visible from the building, PO Davis believed it was a false alarm. PO Thompson and PO Davis subsequently waited for FDNY to leave before entering the location.

According to the 911 radio communications audio, Central informed “Response 4” (PO Davis and PO Thompson) that a caller stated that a tenant was harassing her and banging on the super’s door. “Response 4” acknowledged receiving this message. Central then stated, “sensitive location for premise history of EDP,” but neither PO Davis nor PO Thompson responded to Central on whether they heard this radio transmission. There were no additional radio communications about this job (Board Review 19). From the 911 radio communications, Central directed “46 Response 5” (PO Bowles and PO Adam Morales) to check on the “59 residential fire” at § 87(2)(b) and stated, “sensitive location for premises history of EDP” once (Board Review 19).

According to their CCRB interviews, PO Thompson and PO Davis were the first to arrive at § 87(2)(b) (Board Review 22, 23, 44). PO Bowles stated that he saw PO Thompson and PO

Davis' vehicle on the scene as they were responding to the fire so they drove away (Board Review 44).

In his CCRB statement, PO Davis stated that while the officers remained inside their patrol car, § 87(2)(b) approached them, identified himself as the § 87(2)(b) and told them that he witnessed a male, identified as § 87(2)(b) acting erratic in the building hallway, yelling and screaming, banging on doors, threatening tenants, and that the officers "need to go upstairs." PO Davis stated that § 87(2)(b) did not say whether § 87(2)(b) was holding anything.

PO Thompson recalled § 87(2)(b) telling them that § 87(2)(b) had a stick, was being loud and aggressive, was banging on doors and threatening him with the stick. PO Thompson stated that once inside the lobby, § 87(2)(b) informed them that § 87(2)(b) had been banging on tenants' doors as well as the superintendent's door and that she felt threatened by § 87(2)(b).

PO Davis stated that § 87(2)(b) said that § 87(2)(b) threatened to punch her in the face and also threatened to hurt her; PO Davis could not elaborate about the specifics of these threats beyond, "She just said that he wanted to punch and hurt people, that's what she said, and that's what the super also said." PO Davis did not recall if § 87(2)(b) said § 87(2)(b) was carrying anything. However, the Bronx DA's report noted that PO Davis stated that § 87(2)(b) said that § 87(2)(b) had a stick and knife. In his FID interview, PO Davis stated that § 87(2)(b) said that § 87(2)(b) had a "weapon in his hand."

PO Thompson stated that he did not recall whether he or PO Davis asked about § 87(2)(b)'s mental health and neither § 87(2)(b) nor § 87(2)(b) told them anything about his mental health history. PO Davis stated that neither he nor PO Thompson asked § 87(2)(b) or § 87(2)(b) about § 87(2)(b)'s mental health. PO Thompson stated that at this point there was no reason to believe that they were responding to anything else other than the information they received from the initial 911 calls (a harassment call). PO Thompson and PO Davis were then escorted up to the fourth floor by § 87(2)(b) and § 87(2)(b) the § 87(2)(b).

Upon reaching the fourth floor, PO Davis and PO Thompson instructed § 87(2)(b) and § 87(2)(b) to remain in the stairwell. At this point, PO Davis and PO Thompson were going to investigate the incident and speak with § 87(2)(b). There was no conversation between PO Davis and PO Thompson on how they were going to conduct the investigation. PO Davis and PO Thompson walked down the empty hallway towards § 87(2)(b)'s apartment. PO Davis testified that his intention was to speak with § 87(2)(b) see what "his state of mind" was and how the officers could help him. As they approached § 87(2)(b)'s apartment door, PO Davis and PO Thompson heard loud music coming from inside his apartment. PO Thompson did not know if anyone else was inside the apartment aside from § 87(2)(b). PO Davis stated that the music stopped, and he heard cursing and yelling in the apartment. PO Davis said that § 87(2)(b) was yelling and throwing things inside the apartment. § 87(2)(b)'s yelling made PO Davis believe that heavy objects were being thrown inside. PO Davis heard a voice yell, "Ah! What the fuck!" PO Davis did not hear any other voices. At this point, PO Davis wanted to make sure there was nobody else inside the apartment who could be hurt.

At 2:20 of surveillance footage depicting the fourth-floor hallway of § 87(2)(b) PO Davis and PO Thompson enter the frame from the bottom (Board Review 05). PO Davis puts a glove on his left hand and knocks on § 87(2)(b)'s door at 2:26 of the surveillance footage. During his CCRB testimony, PO Davis explained that he put on his gloves as a tactic to prevent "getting your hands hurt." At 2:28 of the surveillance footage, PO Davis steps back and stops knocking. At 2:42 of the surveillance footage, PO Thompson also puts his gloves on. PO Thompson said he put on his

gloves in case they “have to put hands” on somebody as it is a safety measure as bodily fluids can be spread and “You don’t know what someone has.” PO Thompson said at this point it was unknown whether he would need to get physical but that if he did, he would not have time to place his gloves on.

In his CCRB testimony, PO Davis stated that he said, “Hello, this is the police” once, as he knocked on the door. PO Davis stated that there was a large hole where a keylock would go, with a chain “looped around” the hole. The investigation determined that his door had been previously damaged by FDNY and was unlocked. As PO Davis knocked more on the door, the chain fell from the hole in the door. Between 2:43 and 2:47 of the surveillance footage, PO Davis continues to knock on the door and the door opens. Although PO Thompson’s BWC footage does not show PO Davis’ view of inside the apartment, PO Davis stated that he was able to see the right side of § 87(2)(b) holding a stick in his right hand and standing in the apartment approximately 15 feet away from the officers. PO Davis described this stick as “a three-foot round stick with black tape” that looked “like a baseball stick” used for stickball. A photo of the stick is included in the FID case file (Board Review 27).

From the surveillance footage, PO Davis knocked for approximately 20 seconds before he pushed the door open (Board Review 05). Beginning at 00:13 of PO Thompson’s BWC, PO Davis pushes the door (Board Review 29). At 00:18, PO Davis pushes the door fully open and extends his asp in his right hand. In his CCRB statement, PO Davis stated that at this point he had a full view inside the apartment. PO Davis stated that § 87(2)(b) was still about 15 feet away and was walking back and forth towards officers coming approximately three feet closer. PO Davis stated that § 87(2)(b) was standing in the hallway kitchen area of his apartment holding a knife in his left hand, with the blade pointing down, and a stick in his right hand. PO Davis estimated the size of the knife as between 12”-13” and it had a black handle. PO Davis described the knife as serrated “like a knife to cut salad.” FID took a photo of the knife and included it in their Preliminary Investigation Worksheet (Board Review 27).

PO Thompson stated that he only saw the stick at around this point and explained that § 87(2)(b) was “using the stick like a weapon” as he was holding it in a threatening manner. Aside from holding the stick and waving it as he walked back and forth, there was nothing else that § 87(2)(b) did with the stick that led PO Thompson to believe § 87(2)(b) was menacing them. At 2:55 of the surveillance footage, PO Davis steps his left foot inside § 87(2)(b)’s residence (Board Review 05). At around the same time, at 00:22 of PO Thompson’s BWC, PO Davis keeps the door opened with his right hand as he is still holding his asp in that hand (Board Review 29). PO Davis explained that he broke the threshold of the doorway when § 87(2)(b) walked away from the officers because he wanted to make sure that nobody else was inside the apartment. PO Davis did not cross the threshold for any additional reasons. PO Davis subsequently saw that there was no one else inside the apartment. When § 87(2)(b) walked back towards the doorway, PO Davis retreated from the doorframe threshold into the hallway. PO Davis did not leave at this point because he was trying to “contain the situation,” “talk him down” and get § 87(2)(b) to drop the knife. After seeing the knife in § 87(2)(b)’s hand, PO Davis stated that he immediately and simultaneously pulled out his asp with his right hand and his taser with his left hand and pointed the taser at § 87(2)(b). At 3:01 of the surveillance footage, it shows PO Davis reaching for his taser with his left hand. At 00:27 of PO Thompson’s BWC, it appears that § 87(2)(b) is holding a stick. PO Davis explained that he pulled out the asp because he saw the stick in § 87(2)(b)’s hand and his goal was to use the asp to knock it out. PO Davis pulled out his taser because if § 87(2)(b) came within five or six feet of the officers, he would have to tase him. PO Davis elaborated that he might have to tase § 87(2)(b) “If he’s going to be in attack mode with a knife and a stick, I have to put him down, at least to hold him down so we can get him cuffed.” At this

point, PO Davis did not believe that § 87(2)(b) would attack him or PO Thompson. PO Davis further explained that he could not use pepper spray because of the apartment's close quarters, which would choke all parties present.

Audio is captured after 00:30 of PO Thompson's BWC (Board Review 29). § 87(2)(b) asks why the officers are in his home and PO Davis says, "Put it down." At 00:33, while PO Davis and PO Thompson have their tasers out, PO Davis tells PO Thompson, "We ain't going to tase him."

PO Thompson said he was taught in the Police Academy that a person with a knife can close the distance very quickly and he drew his taser as he was trained that a taser is a less than lethal form of force. PO Thompson stated that he did not hear PO Davis say, "We ain't going to tase him." PO Davis said he told PO Thompson not to tase § 87(2)(b) because he wanted to talk to him and have him put the knife and stick down. PO Davis added, "We just got there, we need to see and assess what we have going first, so he's [PO Thompson] really close to me, he could have freakin' tased me, but I told him to wait, the door was almost fully open and the gentlemen was standing right there, as you can see." At 00:37, PO Davis retracts his asp while § 87(2)(b) walks further into his apartment, away from the officers. PO Davis stated he did this because § 87(2)(b) was not "a whole threat" and he did not want to show § 87(2)(b) that he "was attacking him." At 00:41, § 87(2)(b) switches the stick from his right hand to his left hand and this is the first instance in the BWC showing § 87(2)(b) holding the knife, with the tip of the blade pointing up in his right hand. At 00:43, PO Thompson says, "He's got a knife," and PO Davis says, "I know."

In his CCRB testimony, PO Thompson stated that § 87(2)(b) grabbed a knife from a counter in the apartment. After PO Thompson reviewed his BWC in his CCRB interview, PO Thompson maintained that § 87(2)(b) reaches behind the refrigerator with his left hand and then soon after the knife is shown in § 87(2)(b)'s right hand. PO Thompson could not tell where exactly the knife was grabbed from. Between 00:37 and 00:41, § 87(2)(b) asks, "Why are you in my home" twice. At 00:44, § 87(2)(b) says he has a knife because he was cooking. PO Davis stated that § 87(2)(b) "waved his weapons" as he paced back and forth and § 87(2)(b)'s facial expressions, use of foul language, and repeated insistence that the officers leave his apartment contributed to PO Davis' belief that § 87(2)(b) was violent. Between 00:42 and 1:13, § 87(2)(b) is moving the knife from side to side as he is speaking and at times he held the knife above his shoulders.

Absent consent or exigent circumstances, officers may not make a warrantless entry into a given premises in which an individual has legitimate expectation of privacy, Payton v. New York 445 U.S. 573 (Board Review 35).

According to People v. Rodriguez, 77 A.D.3d 280, officers are permitted to enter a premises without a warrant if they reasonably believe that there is an emergency and an immediate need for their assistance for the protection of life or property and a reasonable basis to associate the emergency with the area being entered (Board Review 30).

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody. In determining whether the use of force is reasonable, member of the service should consider the nature and severity of the crime/ circumstances, actions taken by the subject, duration of action, immediacy of perceived threat or harm to subject, members of service, and/or bystanders, whether the suspect is actively resisting custody, whether the subject is attempting to evade arrest by flight, size, age, and condition of the subject in comparison to the MOS (Board Review 31).

NYPD Patrol Guide Procedure 221-02 defines de-escalation as “taking action to stabilize the situation and reduce the immediacy of the threat so that more time, options, and/or resources become available (Board Review 32). The goal is to gain voluntary compliance of the subject, when appropriate and consistent with personal safety, to reduce or eliminate the necessity to use force.

Prior to arriving at the location, the information that PO Thompson and PO Davis received via department radio was that a tenant was harassing the 911 caller and banging on the superintendent’s door. When they arrived, they were made aware that § 87(2)(b) had threatened § 87(2)(b) and § 87(2)(b)

PO Davis and PO Thompson stated that, after they spoke with § 87(2)(b) and § 87(2)(b) they went to § 87(2)(b)’s door to investigate the reported harassment. At the point that PO Davis began knocking on the door, there was nothing that led him to believe that anyone inside the apartment was in need of immediate assistance. After § 87(2)(b)’s door opened from the force of PO Davis’ knocking, PO Davis opened the door fully and propped it open with his arm. PO Davis said that he then stepped one foot into § 87(2)(b)’s apartment because he wanted to ensure that nobody else was inside. However, neither of the officers received any information or observed anything that led them to believe there was anyone else inside the apartment. § 87(2)(g)

As noted above, PO Davis and PO Thompson were investigating reports of harassment and were possibly told that § 87(2)(b) had been in possession of a stick; however because of inconsistent accounts throughout the various statements the witnesses and officers provided, it is unclear whether PO Davis and PO Thompson knew that § 87(2)(b) carried a stick before opening the door. After seeing § 87(2)(b) holding a stick inside his apartment, PO Davis pulled out his asp as a tool to knock the stick out of § 87(2)(b) hand, and then upon seeing § 87(2)(b) with a knife, he pulled out his taser as a precaution in case § 87(2)(b) came close to the officers. Both of these actions were done within seconds from PO Davis making the observations and PO Davis retracts his asp a few seconds after taking it out. Based on PO Davis retracting his asp while continuing to instruct § 87(2)(b) to drop the knife, the investigation determined that PO Davis was trying to de-escalate the situation as he also explained that he did not believe § 87(2)(b) was a “whole threat” and he did not want to show § 87(2)(b) that he “was attacking him.” Although PO Davis still had his taser drawn, the investigation credited PO Davis’ account that he did not have the intention on taser § 87(2)(b) at this point because he told PO Thompson that they were not going to taser him. PO Davis further added that they had just arrived and needed to continue to assess the situation. § 87(2)(g)

Allegation (C) Force: Police Officer Brendan Thompson pointed his gun at § 87(2)(b).

Allegation (D) Force: Police Officer Brendan Thompson used a non-lethal restraining device on § 87(2)(b).

Allegation (E) Abuse of Authority: Police Officer Herbert Davis entered § 87(2)(b) in the Bronx.

Allegation (F) Abuse of Authority: Police Officer Brendan Thompson entered § 87(2)(b) in the Bronx.

At 00:43 of PO Thompson's BWC, PO Thompson has his taser pointed at § 87(2)(b) while saying, "He's got a knife" (Board Review 29). § 87(2)(b) is holding a knife with the tip of the blade facing up in his right hand and a stick in his left hand. At 00:45 of PO Thompson's BWC, PO Davis tells PO Thompson, "Don't, don't, don't," while extending his arm towards PO Thompson. As discussed above, a few seconds prior to this, the BWC also shows PO Davis retracting his asp and telling PO Thompson that they were not going to tase § 87(2)(b).

During his CCRB interview, PO Davis stated that his intentions at this point were to speak with § 87(2)(b) and have him put the knife and stick down. PO Davis further stated, "We just got there, we need to see and assess what we have going first, so he's [PO Thompson] really close to me, he could have freakin' tased me, but I told him to wait, the door was almost fully open and the gentlemen was standing right there, as you can see."

At 00:47 of PO Thompson's BWC, PO Thompson draws his firearm and points it at § 87(2)(b). At 3:21 of the surveillance footage, PO Thompson is seen holstering his taser and starts to draw his firearm at 03:23 (Board Review 05). At 03:23 of the surveillance footage, the time stamp reads 11:07:10 p.m. and at 03:24 of the surveillance footage, the time stamp reads 11:07:32 p.m. At 03:24 of the surveillance footage, PO Thompson has his firearm pointed inside the residence. In his CCRB testimony, PO Thompson stated at this point he switched from holding his taser to his firearm because § 87(2)(b) had come close to the officers, was armed with a knife, was menacing them, and was within distance that even if he "hit" § 87(2)(b) § 87(2)(b) could have still stabbed and killed them with the knife (Board Review 22). At 3:48 of the surveillance footage, PO Thompson draws his taser with his left hand while holding the firearm with his dominant, right hand. At 3:45 of the surveillance footage, PO Thompson tasers § 87(2)(b) while still pointing his firearm in the residence. PO Thompson then drops the taser and holsters his firearm. In his CCRB testimony, PO Thompson acknowledges that he has both his gun and taser in his hands, but he did not have an independent recollection of this and did not know why he had both out simultaneously. PO Thompson acknowledged that he was not trained to hold both the taser and firearm out simultaneously.

Between 00:47 and 01:28 of PO Thompson's BWC footage, PO Davis tells § 87(2)(b) to put the knife down 10 times and PO Thompson gives a similar command five times. During this time period, § 87(2)(b) is moving his right hand from side to side while telling the officers that he was cooking, that he had called the fire department, and asked why they kicked his door (Board Review 29). § 87(2)(b) takes about four steps closer to the officers. At 1:21, § 87(2)(b) holds the knife and stick in his right hand while his left hand is empty. Between 1:21 and 1:28, § 87(2)(b) is standing in the same position with the knife and stick in his right hand. At 1:28, PO Thompson tasers § 87(2)(b). § 87(2)(b) does not verbally or physically threaten the officers prior to PO Thompson tasing him.

In his CCRB statement, PO Davis stated that § 87(2)(b)'s facial expressions, use of foul language, and repeated insistence that the officers leave his apartment contributed to PO Davis' belief that § 87(2)(b) was violent (Board Review 23). PO Davis stated that § 87(2)(b) was "moving back and forth, making threats, cursing out loud...saying he was going to hurt us." PO Davis stated that § 87(2)(b) said he would hurt the officers twice prior to being tased. However, PO Thompson's BWC does not show § 87(2)(b) threatening to hurt the officers and PO Davis testified that he was unsure if § 87(2)(b) threatened to hurt the officers after he was presented with PO Thompson's BWC. PO Davis said that he interpreted § 87(2)(b)'s actions as threatening because § 87(2)(b) was "upset that they were there." PO Davis did not call EMS or request

backup because “it was happening so fast; we didn’t have time to call EMS at that moment.” Between when he first knocked on the door and when PO Thompson tasered § 87(2)(b) PO Davis stated that he did not believe that § 87(2)(b) was going to attack the officers which is consistent with § 87(2)(b)’s actions as captured in PO Thompson’s BWC as noted above. However, during his CCRB interview, PO Davis later denied that he did not feel it was necessary to tase § 87(2)(b) at the point PO Thompson tasered § 87(2)(b) and elaborated that “it was a matter of time which one of us was going to tase him.” PO Davis explained that he did not discharge his taser because he was “still talking to § 87(2)(b) and he was still a distance away, and I was talking to him and getting closer, I didn’t know he was going to discharge it right away, we both had our tasers out, so either one of us could have done it.”

In their CCRB testimony, PO Thompson and PO Davis stated that they received Crisis Intervention Training (CIT) (Board Review 22 and 23). PO Thompson received CIT training while he was in the Police Academy (approximately four years prior to this incident) but did not receive any subsequent trainings since. PO Thompson describes CIT training as a four-day training in which they cover how to handle certain instances involving people in crisis, whether they are emotionally disturbed or having a bad day and the goal of the training is to gain voluntary compliance and de-escalation. PO Davis received CIT training in April 2019 and has since received multiple CIT trainings. PO Davis described the training as learning to speak with people with mental illness or under the influence, and how to intervene and talk to these people to get them help, and possibly call EMS for further assistance.

In his CCRB statement, PO Thompson stated that he did not have the time to stop and “take a time out” to think about the Crisis Intervention Training during the incident. When § 87(2)(b) grabbed the knife, aside from telling him to drop the knife, PO Thompson did not recall what other ways he tried to de-escalate the situation. Prior to PO Thompson taking out his taser, § 87(2)(b) was “menacing” the officers by waving around the knife and stick and pointing the knife at the officers. PO Thompson drew his taser as he was trained that a taser is a less than lethal form of force. PO Thompson did not give § 87(2)(b) any verbal warnings that he was going to deploy his taser. PO Thompson stated that he deployed his taser to take § 87(2)(b) down to the ground so they could handcuff him and then either get him the services he needed or arrest him. After tasering § 87(2)(b) PO Thompson dropped his taser so he and PO Davis could move into the apartment to handcuff § 87(2)(b). He dropped his taser because “it happened so fast” and he wanted his hands to be free. PO Thompson stated that according to his training, after striking someone with his taser, officers should place someone in handcuffs or secure the individual’s weapons. PO Thompson acknowledged that officers are trained to hold onto their taser after deploying it. When an officer is still holding the taser, the officer can issue another five-second cycle if necessary.

PO Davis stated that he entered the residence to handcuff § 87(2)(b) “because he had a weapon in his hand, and he was very combative” and so § 87(2)(b) would not hurt himself or hurt others. PO Davis also said that he intended to arrest § 87(2)(b) at this point for criminal possession of a weapon for the knife, and for menacing. PO Davis said that the menacing charge would have been for menacing PO Davis and PO Thompson by displaying the knife, refusing to drop it, and approaching them with the knife. PO Davis added that there would have been an attempted assault charge if § 87(2)(b) “had hurt one of us.” As noted above, PO Thompson’s BWC footage shows that § 87(2)(b) took a few steps towards PO Thompson and PO Davis and was moving his hands while holding the knife and stick as he spoke.

NYPD Patrol Guide Procedure 221-02 defines de-escalation as “taking action to stabilize the situation and reduce the immediacy of the threat so that more time, options, and/or resources become available (Board Review 32). When a member of the service must gain compliance, control

or custody of an uncooperative subject, the member should utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force, and increase the likelihood of gaining the subject's voluntary compliance.

NYPD Patrol Guide Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of a member of the service or otherwise protect life, or when it is reasonable to place person in custody or prevent escape from custody. In determining whether the use of force is reasonable, member of the service should consider the nature and severity of the crime/circumstances, actions taken by the subject, duration of action, immediacy of perceived threat or harm to subject, members of service, and/or bystanders, whether the suspect is actively resisting custody, whether the subject is attempting to evade arrest by flight, size, age, and condition of the subject in comparison to the MOS. The Patrol Guide specifies that drawing a firearm prematurely or unnecessarily limits a uniformed member of the service's options in controlling a situation and may result in an unwarranted or accidental discharge of the firearm. The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present (Board Review 31).

NYPD Patrol Guide Procedure 221-08 states that officers may use conducted electrical weapons (CEW) against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or others. Active resisting includes evasive movements to avoid the officers attempts to gain control, including bracing, tensing, pushing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. Active aggression is the threat or overt act of an assault (physical or verbal), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. When feasible, a verbal warning, consistent with personal safety, should be given to the intended subject in conjunction with a laser warning (Board Review 33).

NYPD Patrol Guide Procedure 221-13 states that the primary duty of all members of the service is to preserve human life. The safety of all persons involved is paramount in cases involving emotionally disturbed persons. If such person is dangerous to himself or others, force may be used when it is reasonable to prevent serious physical injury or death. Members of the service will use only the reasonable force necessary to gain control or custody of a subject. When there is time to negotiate, all the time necessary to ensure the safety of all individuals will be used.

Procedure 221-13 further specifies that uniformed members of service must attempt to slow the pace of the incident and establish dialogue with the EDP while awaiting arrival of specialized personnel, if necessary. 1. When there is time to de-escalate, all time necessary to ensure the safety of all individuals concerned will be used. The safety and well-being of the EDP, as well as, all persons present is of paramount concern. 2. Avoid any action which might agitate or provoke the EDP, if possible (Board Review 47).

Absent consent or exigent circumstances, officers may not make a warrantless entry into a given premises in which an individual has legitimate expectation of privacy, Payton v. New York 445 U.S. 573 (Board Review 35).

Per People v. McBride, 14 N.Y.3d 440 (2010), police cannot by their own conduct create an appearance of exigency (Board Review 34).

As noted above, PO Davis' intention from before reaching § 87(2)(b)'s apartment to after seeing § 87(2)(b) holding the knife and stick was to speak to § 87(2)(b). From the BWC footage PO Thompson announced that § 87(2)(b) had a knife and PO Davis said, "I know." Prior to this, PO

Davis did not mention the knife or draw attention to the knife. At this point, PO Davis only had his taser drawn, but PO Thompson holstered his taser and drew his firearm immediately upon seeing § 87(2)(b) holding a knife. At that time, PO Thompson and PO Davis had just entered § 87(2)(b)'s home without permission. § 87(2)(b) did not verbally threaten the officers, and it did not appear that he was swinging the knife in a way that could be reasonably be interpreted as a means to cause harm. The BWC shows that PO Thompson escalated the situation by switching his taser to his firearm. The BWC footage also shows that PO Davis said “don’t, don’t, don’t” two seconds before PO Thompson drew his gun.

Although PO Davis and PO Thompson observed the same events, PO Davis, a similarly situated officer, did not draw his firearm or otherwise attempt to use deadly physical force at the point PO Thompson drew his firearm. PO Davis said “don’t, don’t, don’t” to PO Thompson as PO Thompson was about to draw his gun. Although PO Thompson testified that he did not have time to follow his CIT Training, PO Davis maintained that he wanted to continue to speak with § 87(2)(b) and BWC footage shows that PO Davis was calmly giving § 87(2)(b) commands at the point PO Davis drew and pointed his firearm at § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

It is also undisputed that PO Thompson simultaneously pointed his taser and firearm at § 87(2)(b) and although he did not know why he did so, he was not trained to hold both the taser and firearm out simultaneously. At the time he tasered § 87(2)(b) PO Thompson’s firearm was still pointed at § 87(2)(b) increasing the potential for an accidental discharge.

As noted above, § 87(2)(b) never verbally threatened the officers or stated that he was going to harm himself. Furthermore, although it appears that PO Thompson saw the knife at the point he announced it, from the BWC footage, it appears that § 87(2)(b) never grabbed for a knife in their presence. Prior to this, PO Davis had opened § 87(2)(b)'s apartment door unexpectedly and both officers had their tasers pointed at § 87(2)(b) reasonably asked the officers why they were present and for them to leave. § 87(2)(b) explained that he had knife because he was cooking, which was also reasonable given that he was in the kitchen. As such, the investigation determined by the totality of the circumstances at the time PO Thompson tasered § 87(2)(b) § 87(2)(b) was not exhibiting active aggression, nor did he demonstrate that he was going to injure himself or others. Moreover, from the time that PO Thompson first saw § 87(2)(b) to the point he deployed his taser, there were opportunities to give a verbal taser warning which PO Thompson did not do. § 87(2)(g)

After § 87(2)(b)'s door was opened by PO Davis, the officers observed § 87(2)(b) with a knife and a stick inside his kitchen. It is undisputed that § 87(2)(b) did not drop the knife upon commands to do so. However, § 87(2)(b) was in his own residence and told the officers that he was cooking. He also repeatedly asked the officers why they were in his home. Furthermore, the interaction was never peaceful as PO Thompson and PO Davis immediately pointed their tasers at § 87(2)(b) then PO Thompson pointed his firearm, and then PO Thompson tasered § 87(2)(b) prior to entering the residence. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (G) Force: Police Officer Brendan Thompson fired his gun at § 87(2)(b)

§ 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Herbert Davis did not obtain medical treatment for § 87(2)(b)

Allegation (I) Abuse of Authority: Police Officer Brendan Thompson did not obtain medical treatment for § 87(2)(b)

PO Thompson's FID and CCRB statements were largely consistent (Board Review 22 and 26). In his CCRB testimony, PO Thompson stated that after the taser prongs struck § 87(2)(b) § 87(2)(b) fell backwards (Board Review 22). The knife and stick fell out of § 87(2)(b) § 87(2)(b)'s hands and were next to him, but PO Thompson was not sure how far away they were from him. After entering § 87(2)(b) § 87(2)(b)'s apartment, PO Thompson and PO Davis were "pretty close" to § 87(2)(b) § 87(2)(b) before § 87(2)(b) § 87(2)(b) stood up. According to PO Thompson, § 87(2)(b) § 87(2)(b) "jumped up" very quickly after the five-second taser cycle wore off. When § 87(2)(b) § 87(2)(b) jumped up, he picked up the knife and stick. PO Thompson did not know whether § 87(2)(b) § 87(2)(b) picked up the knife before or after jumping up from the ground. In his FID statement, PO Thompson stated that § 87(2)(b) § 87(2)(b) had the knife and stick in his right hand (Board Review 26). PO Thompson and PO Davis retreated backwards towards the door. PO Thompson was not holding anything as he retreated toward the door. PO Thompson stated that § 87(2)(b) § 87(2)(b) held the knife and stick in his right hand and pointed the blade of the knife towards the officers. § 87(2)(b) § 87(2)(b) said, "What are you going to do?" as he "charged" towards the officers. Between § 87(2)(b) § 87(2)(b) jumping up and "charging" towards the officers, nothing else happened. PO Thompson described § 87(2)(b) § 87(2)(b)'s charging as running and advancing towards the officers very quickly. As § 87(2)(b) § 87(2)(b) ran towards the officers, PO Thompson pulled out his firearm. When asked what his thoughts were at that time, PO Thompson initially stated he did not recall what he was thinking. He then stated that "it was a life or death situation," as § 87(2)(b) § 87(2)(b) had an edged weapon. PO Thompson did not say anything after pulling his firearm and did not issue any warnings to § 87(2)(b) § 87(2)(b). PO Thompson did not attempt to close the door on § 87(2)(b) § 87(2)(b) to barricade him in the apartment because they were unable to secure the door as it was broken by the fire department. Prior to discharging his firearm PO Thompson did not call for additional units or request ESU as he said, "things escalated so quickly." § 87(2)(b) § 87(2)(b) was approaching PO Thompson very quickly when he shot him four times, but could not approximate how far away § 87(2)(b) § 87(2)(b) was from him. Prior to discharging his firearm there was no opportunity for PO Thompson to create more distance between himself and § 87(2)(b) § 87(2)(b) as they were standing in the hallway.

PO Davis' FID and CCRB testimony were largely consistent (Board Review 23 and 28). PO Davis stated that § 87(2)(b) § 87(2)(b) was still clutching the knife in his left hand and stick in his right hand when he fell. Five seconds after hitting the ground, § 87(2)(b) § 87(2)(b) "snapped out of it" when he came out of the electrical shock of the taser. The officers were three feet from § 87(2)(b) § 87(2)(b) when he stood back up. § 87(2)(b) § 87(2)(b) dropped the knife and stick and then repositioned both the knife and the stick into his right hand before standing back up. PO Davis characterized this movement as § 87(2)(b) § 87(2)(b) "jumping up" and that he was surprised by this action. The blade of the knife was pointed up, and the stick was behind the knife. § 87(2)(b) § 87(2)(b) repositioned the knife blade-up into his left hand and raised both of his hands to shoulder height with his arms swinging back and forth. PO Davis described these movements as not "danger movements as of yet" but said that "it was movements of him being angry of us being there." § 87(2)(b) § 87(2)(b) was very upset and screamed at the officers and yelled, "Ahh, get out of my house, get the fuck out." PO Davis added that § 87(2)(b) § 87(2)(b) was saying "gibberish" at the officers." PO Davis and Thompson then retreated to the doorway, still facing § 87(2)(b) § 87(2)(b). PO Davis retreated to create space between the officers and § 87(2)(b) § 87(2)(b) and to provide the officers more space in case other action was needed.

At this point, PO Davis believed that § 87(2)(b) § 87(2)(b) would attack the officers because he was now more aggressive and was also getting closer to them. § 87(2)(b) § 87(2)(b) "nonchalantly" walked towards the officers. PO Davis denied that § 87(2)(b) § 87(2)(b) 'charged' at the officers. PO Davis took out his

taser and asp to prepare to re-tase § 87(2)(b) PO Davis did not tase § 87(2)(b) at this point because he “was still trying to get him to comply to drop his weapon and his stick.” PO Davis added that he did not believe § 87(2)(b) would comply with PO Davis’ commands “because he wasn’t listening” and was “getting angrier.” PO Davis noted that his bulletproof vest would not prevent a knife from penetrating it. Starting from 10 feet away from the officers, § 87(2)(b) “lunged” forward toward the door while the officers stood behind the doorway. PO Davis described this ‘lunge’ action as moving the upper half of his body forward and moving his arms in a circling motion in front of him. PO Davis testified that § 87(2)(b)’s actions at this point did not change the previous dynamics of the encounter. PO Davis did not consider closing the door at this point because “everything was happening very fast, I didn’t have it in mind to close the door.” PO Davis did not see that PO Thompson held a firearm, and PO Thompson did not indicate to PO Davis that his firearm was out. PO Davis did not draw his firearm at this point because his hands were already full with his taser and asp. PO Davis testified that at this point there was no reason for not switching either his asp or his taser for his firearm at this point. PO Davis testified that he did not have enough time to use his taser at this point. PO Thompson did not at any point verbally warn § 87(2)(b) that he would shoot him if he did not drop his knife.

PO Thompson fired three consecutive shots before firing his fourth shot. PO Thompson stated that § 87(2)(b) was still a threat after the third shot as he was still coming towards the officers. After the fourth shot, § 87(2)(b) fell behind the door. PO Davis stated that he had a view of § 87(2)(b)’s entire body when he was on the floor. PO Davis stated that § 87(2)(b) was motionless and believed that he was deceased because he was not breathing.

At this point, PO Thompson stated he did not know if the gunshots were fatal. PO Thompson went over the radio and requested the Sergeant, additional units, and EMS. PO Thompson acknowledged that aside from calling for additional units and EMS, officers are required to render first aid after shooting someone. PO Davis also acknowledged that after an individual is shot by the police, officers should report shots fired over the radio, call supervisors to the scene, and attempt to render aid to the individual. PO Thompson and PO Davis stated that they did not render aid because everything happened so fast. PO Thompson and PO Davis received CPR training prior to this incident.

Between 1:32 – 1:33 (when played frame-by-frame) of PO Thompson’s BWC footage, it appears that § 87(2)(b) is holding the stick and knife in his right hand as he is on the floor after being tased (Board Review 29). During his CCRB interview, PO Thompson was shown this portion of his BWC footage, and PO Thompson said he could not tell whether § 87(2)(b) was holding the knife and stick in his hand when § 87(2)(b) fell. At 1:36, it appears that PO Thompson is backing out of the apartment and § 87(2)(b) screams something inaudible. § 87(2)(b) is standing up and moves towards the rear of the apartment. PO Thompson has his firearm pointed at § 87(2)(b) and at 1:39, PO Davis says, “No, no, no, don’t.”

After reviewing this portion of his BWC, PO Thompson stated that § 87(2)(b) charged and advanced very quickly at the officers before discharging his firearm. PO Thompson did not have an independent recollection of what § 87(2)(b) was saying prior to shooting him. When presented with the footage in his CCRB interview, PO Thompson said that at this moment, § 87(2)(b) was picking up the knife and the stick after recovering from being tased, and he “still wanted to try to talk him out of dropping the knife and the stick.”

At 1:40 of PO Thompson’s BWC, § 87(2)(b) jumps up and down as he is moving closer towards the officers (Board Review 29). It also appears that § 87(2)(b) says, “I’m going to kill you all.” PO Thompson then shoots § 87(2)(b) at 1:42, while the officers are in the hallway and § 87(2)(b)

- ☐ § 87(2)(b)

- § 87(2)(b) and can be found in Board Review 39.

Investigator: Patrick Yu SI Patrick Yu 06/02/2021

Squad Leader: Patrick Yu SI Patrick Yu 06/02/2021

Reviewer: